

CHAPTER NO. 792

HOUSE BILL NO. 2532

By Representatives Fowlkes, Hood, Eckles, Brenda Turner, Williams, Goins, Maddox, John DeBerry, Lois DeBerry, Chumney, Montgomery, Walker, Bowers, Kent, McDaniel, Ralph Cole, Langster, Ulysses Jones

Substituted for: Senate Bill No. 2340

By Senator Graves

AN ACT to amend Tennessee Code Annotated, Title 37, Chapter 1, relative to the "Tennessee Teen Court Program of 2000".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

WHEREAS, it is sound public policy to provide opportunities for young people to develop and improve citizenship skills; and

WHEREAS, teen courts involve youth in the democratic processes of the juvenile justice system; and

WHEREAS, teen courts provide opportunities for youth to participate in learning experiences to explore rights and responsibilities and to confront and resolve real-life disputes regarding their peers; and

WHEREAS, teen courts encourage participants to internalize responsibility and experience general and specific deterrence; and

WHEREAS, national research suggests that teen courts experience lower recidivism rates; and

WHEREAS, The Tennessee Council of Juvenile and Family Court Judges has endorsed the concept of a teen court; and

WHEREAS, the number of teen courts increased from approximately fifty (50) programs in 1991 to an estimated four to five hundred (400-500) in 1998, located in approximately forty-five (45) states, in part because of the positive impact of such courts in the local community; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE;

SECTION 1. Tennessee Code Annotated, Title 37, Chapter 1, is amended by adding the following new part 7, as follows:

Section 37-1-701. This part shall be known as and may be cited as the "Tennessee Teen Court Program of 2000".

Section 37-1-702. (a) Any juvenile court judge is authorized to establish a teen court program pursuant to the provisions of this part. In a jurisdiction in which there are multiple juvenile court judges, each judge may establish a teen court. In any jurisdiction in which a teen court program is established, a teen charged with an offense specified under this act may receive a disposition recommended by a five (5) member teen court and confirmed by the juvenile

court judge. The teen court shall be held at a place to be determined by the local juvenile court judge.

(b) The procedure for the court to determine participation in the teen court is as follows:

(1) After the court makes a determination, in the presence of at least one of the teen's parents or legal guardian, that the teen is a child subject to the court's jurisdiction and is delinquent under §37-1-131 or unruly under §37-1-132, the court may direct that the disposition determination will be made by the teen court.

(2) When a juvenile court determines that a case is appropriate to be handled by the teen court, the teen shall be informed by the court of the procedures for teen court disposition and shall be given an opportunity to enter a waiver of rights to participate in a teen court disposition. The court shall inform the teen that if the teen enters a waiver, including a waiver of any right for an attorney to be present during the dispositional stage, a teen court may be empanelled to hear evidence on disposition; it shall deliberate; and shall make a recommendation to the judge for disposition of the case which may be confirmed by the juvenile court without further proceedings. If the teen elects to not enter a waiver, the judge shall proceed with the case as provided by law without referral to the teen court.

(c) In choosing cases to be referred to the teen court for disposition, the juvenile court shall determine:

(1) That the offense underlying the juvenile petition was one of the following:

- (A) assault, § 39-13-101;
- (B) burglary, § 39-14-402;
- (C) theft of property, § 39-14-103;
- (D) vandalism, § 39-14-408;
- (E) forgery, § 39-14-114;
- (F) cruelty to animals, § 39-14-202;
- (G) unauthorized use of vehicle, § 39-14-106;
- (H) criminal attempt, § 39-12-101;
- (I) disorderly conduct, § 39-17-305;
- (J) harassment, § 39-17-308;
- (K) criminal trespass, § 39-14-405;
- (L) traffic offense, § 37-1-146;
- (M) runaway, § 37-1-102(a)(23);

(N) truancy, § 37-1-102(a)(23);

(O) violation of curfew; and

(P) unruly, § 37-1-102(a)(23).

(2) That the teen will benefit more from participation in the teen court and any disposition that may be recommended than from any other disposition that may be imposed;

(3) That the teen, in the presence of at least one of his or her parents or a guardian, has executed an informed waiver of rights, including any right to have an attorney present at the dispositional stage; and

(4) That the particular case does not have any special circumstances, such as suspected mental illness or mental retardation of the teen or special needs of the victim of the offense, that make the case inappropriate for referral to the teen court.

(d)

(1) A teen court shall have the authority to conduct proceedings and to receive evidence and hear testimony related to the dispositional stage. The teen court shall consist of five (5) teen members chosen by the juvenile court as set out herein. The teen members shall choose a presiding officer who shall conduct the proceeding under the supervision of the juvenile court judge. After hearing all evidence and testimony, the teen court shall retire to deliberate and a written decision shall be written by the presiding officer.

(2) The written decision shall be transmitted to the juvenile court judge as a recommendation, along with all papers relating to the case. The written recommendation will specify a proposed disposition along with reasons therefor.

(3) Upon receipt of the recommendation, the judge shall review it, along with all papers relating to the case. The judge may accept, modify or reject the recommendation. If the judge accepts the recommendation as presented or modified, the judge shall confirm it by order. If the judge rejects the recommendation, the judge shall permit any additional hearing as may be necessary and shall enter an order as necessary.

(e)

(1) The teen court shall have the authority, in a case referred by the juvenile court, to recommend disposition of the case as permitted by this part. The teen court shall have no authority to recommend transfer of temporary legal custody to any person or entity or to require placement or treatment in any specific program. If the teen court determines that such transfer of temporary legal custody or placement is the only appropriate remedy, the case shall be referred back to the juvenile court for further proceedings. The teen court may recommend:

(A) Restitution, as defined in § 37-1-102(20), and subject to the provisions of § 37-1-131(b);

(B) Performance of community service work; subject to the requirements of § 37-1-131(a)(7);

(C) Limitations upon driving privileges;

(D) Participation as a teen court member;

(E) Attendance at court-approved education workshops, on subjects such as substance abuse, safe driving, victim awareness;

(F) Curfew limitations;

(G) School attendance; and

(H) Essay writing or similar research or school projects.

(2) Any dispositional recommendation shall comply with the requirements of Title 37, unless contrary to the express provisions of this part. Dispositional alternatives shall be chosen from a list approved by the juvenile court or shall be similar in kind to those set forth in subsection (e)(1).

(f)(1) Any juvenile court judge who establishes a teen court shall choose, at the beginning of the school year, a panel of twelve (12) or more teenagers to serve as teen court members. Each teen court for a specific case shall consist of five (5) members chosen from the panel of twelve (12). Such teens shall be chosen from the local public and private high schools or middle schools. They shall be selected by the juvenile court judge in consultation with the local principal(s). The judge shall attempt to choose teens who are not otherwise active in extracurricular activities.

(2) Members of the teen court shall serve without reimbursement. The juvenile court shall certify the name, address, and school attended of each teen court member to the Secretary of State who shall issue a certificate of participation for each to the juvenile court judge.

(g) It is the legislative intent that teen court proceedings shall be, to the extent possible, conducted by teens with limited adult participation. The Tennessee Rules of Juvenile Procedure shall not apply. The juvenile court judge shall have the authority to appoint teens to serve as prosecuting and defense attorneys. It is further the legislative intent that the juvenile court shall have the flexibility to establish procedures, not inconsistent with this part, to assure fairness and equity and to protect the rights of all parties.

(h) Every juvenile court judge, whether or not such judge establishes a teen court, may hold juvenile court proceedings at a public high school or middle school in the county of the court's jurisdiction for at least one (1) day per year. Such court proceeding shall be publicized in cooperation with the local school authorities in a manner to encourage teen observation and, where appropriate, participation.

(i) Each participant in teen court proceedings shall have the same immunity provided by law for judicial proceedings.

(j) All records used in, or otherwise related to, teen court proceedings shall be confidential to the full extent provided by current law, except as necessary to permit functioning of the teen court. Nothing contained in this section shall, in any manner, alter the confidentiality of records or proceedings under current juvenile court law.


SECTION 2. For the purposes of a juvenile court establishing a Teen Court Program as authorized by this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2000, the public welfare requiring it.

PASSED: May 11, 2000


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 22nd day of May 2000


DON SUNDQUIST, GOVERNOR